

From: Hornick, John
Sent: Wednesday, September 14, 2005 3:29 PM
To: jwalker@orrick.com
Cc: Bhanu.Sadasivan@hellerehrman.com; dan.hampton@hklaw.com; Facebook/Connectu-OHSandCo-Counsel@orrick.com; robert.hawk@hellerehrman.com; Grabow, Troy; Hart, Pat
Subject: Re: Meet and Confer re ConnectU Deposition

Dear Joshua:

In response to your email today (1:46pm), we are asking you to state with specificity, in letter form, the questions with which you are unsatisfied with ConnectU's deposition testimony. Unless you state such questions, it will take us much longer to review the transcript pages you cited in Exhibit A to your September 12, 2005 letter, and we will have no way of knowing if the question we are reviewing for the adequacy of the answer is in fact the question with which you are unsatisfied with ConnectU's answer. Moreover, you cite many transcript pages and similar questions were asked at different times during the deposition. Do you view similar questions as the same question? Only you can tell us. Hence, we need a list of the questions with which you are dissatisfied with the answers. After you provide such a statement, we will then consider the questions you have identified in light of the testimony you cited, as well as other testimony in the transcript where such questions were asked and/or answered, respond to you accordingly, and meet and confer if you still wish to do so after considering our response. As you can see, this will be a big job even after you state the questions you wish us to consider. You have already identified the pages with which you are dissatisfied with testimony, so it will not be hard for you to specify the questions you wish us to consider.

Regarding your alleged prejudice if you do not meet and confer with us before some particular number of days have passed, there can be none and you identify none. We told you on August 22, 2005 that we will consider providing a witness for further testimony after you identify and we consider the ConnectU testimony with which you are unsatisfied. It has taken you 27 days since you first raised this issue (August 16, 2005, or 34 days if we count from the deposition itself) to begin to identify - by way of your September 12, 2005 letter - the details of the alleged deficiencies with ConnectU's Rule 30(b)(6) testimony, despite our request for the details of such alleged deficiencies in our September 1, 2005 letter (as well as our August 17, 2005 letter). Now you are in a rush. Moreover, during our August 22, 2005 conference, you offered to defer the supplemental deposition to a mutually convenient time.

Regarding our availability to meet and confer, we will do so as soon as we reasonably can (if you still wish to do so after considering our response), after we receive from you a statement of the questions with which you are dissatisfied with the answers and we have a reasonable opportunity to review the testimony on such questions.

Email appears to be becoming a common method of communicating in this case. We endeavor to respond to email on a reasonably timely basis, but you should never view our delay in responding as a refusal to respond. I will be changing email systems tomorrow and will have no access to email until sometime on Friday (if all goes well).

Sincerely,

John

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